

**ORAL ARGUMENT SCHEDULED FOR OCTOBER 7, 2016**

Consolidated Case Nos. 15-1155, 15-1283

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**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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Parkview Community Hospital Medical Center  
Petitioner/Cross-Respondent

v.

National Labor Relations Board  
Respondent/Cross-Applicant

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SEIU United Healthcare Workers-West  
Intervenor

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ON PETITION FOR REVIEW AND CROSS-APPLICATION FOR  
ENFORCEMENT OF A DECISION AND ORDER OF  
THE NATIONAL LABOR RELATIONS BOARD (CASE 21-CA-147256)

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**ADDENDUM TO PETITIONER'S FINAL PRINCIPAL BRIEF**

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## ADDENDUM

The relevant statutes and regulations are set out below:

### **National Labor Relations Act**

#### **Section 7 [29 U.S.C. § 157]**

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities . . . .

#### **Sections 8(a)(1) and (5) [29 U.S.C. § 158(a)(1) and (5)]**

(a) It shall be an unfair labor practice for an employer-

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

\* \* \* \* \*

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a).

#### **Section 9(a) [29 U.S.C. § 159(a) and (c)(1) and (4)]**

(a) Representatives designated or selected for the purposes of collective bargaining by a majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: . . . .

\* \* \* \* \*

(c)(1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board –

Add. 1.

(A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in section 9(a), . . . .

\* \* \* \* \*

The Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

\* \* \* \* \*

(4) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the Board.

#### **Sec. 10(f) [29 U.S.C. § 160(f)]**

(f) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Board, as provided in section 2112 of Title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the

findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

**National Labor Relations Board Rules and Regulations**

**Sec. 102.66(a) [29 C.F.R. § 102.66(a)]**

(a) . . . The rules of evidence prevailing in courts of law or equity shall not be controlling. . . .

**Sec. 102.69(a) [29 C.F.R. § 102.69(a)]**

(a) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the Regional Director in whose Region the proceeding is pending. All elections shall be by secret ballot. . . . Any party may be represented by observers of its own selection, subject to such limitations as the Regional Director may prescribe. . . .

**Sec. 102.69(e) [29 C.F.R. § 102.69(e)]**

(e) Any hearing pursuant to this section shall be conducted in accordance with the provisions of sections 102.64, 102.65, and 102.66, insofar as applicable, except that, upon the close of such hearing, the hearing officer shall, if directed by the Regional Director, prepare and cause to be served on the parties a report resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the issues. . . .

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing Addendum to Petitioner's Final Principal Brief was electronically filed and served upon the parties listed through the Court's Case Management and Electronic Case Filing (CM/ECF) system:

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